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**PATENT  
ATTORNEY DOCKET NO. 34370/US/4  
MATTER NO. 454892-00043**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**In re application of:**

SEMPLE et al.

**Serial No. 10/658,947**

**Filed: 9 September 2003**

**Entitled: HIGH EFFICIENCY  
ENCAPSULATION OF CHARGED  
THERAPEUTIC AGENTS IN LIPID  
VESICLES**

**Examiner: NAFF, David, M.**

**Art Unit: 1651**

"EXPRESS MAIL" LABEL NO.

**EV 695994080 US**

**DATED: MAY 8, 2006**

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## AMENDMENT AND RESPONSE

**Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450**

**Dear Sir:**

This reply is responsive to the Office Action mailed 7 November 2005. In accordance with 37 C.F.R. § 1.7(a), this response was due on May 7, 2006, a Sunday, and therefore is being filed with a three-month extension of time under 37 C.F.R. § 1.136(a) and the appropriate fee under 37 C.F.R. § 1.17(a) on May 8, 2006, the next U.S.P.T.O. business day, thus making it a timely response. While no additional fee is believed to be due, the Commissioner is hereby authorized to charge any other fees or credit any over payments to Deposit Account No. 50-2319 (Our Order No. 454892-00043; our docket no.: 34370/US/4).

**Amendments to the claims begin on page 2 of this paper.**

**Remarks begin on page 4 of this paper.**

[illegible]

DODMA that are critical to the invention of Wheeler. Nevertheless, without admission, upon notification that the application is otherwise in condition for allowance, Applicant will file an appropriate terminal disclaimer.

U.S. Patent No. 6,734,171

Claims 85-93, 97-106, and 108 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of Saravolac et al. (U.S. Patent No. 6,734,171) in view of Collins (U.S. Patent No. 6,355,267) and Wheeler et al. (U.S. Patent No. 6,586,410). Claim 94 stands rejected in further view of Unger et al. (U.S. Patent No. 6,143,276). Claims 95, 96, and 10 stand rejected in further view of Wheeler et al. (U.S. Patent No. 6,586,410). Applicant respectfully traverses the rejection.

U.S. 6,734,171 and the present application are not commonly owned, as the '171 patent is owned by Inex Pharmaceuticals Corporation. Further, the priority date of the present application precedes that of U.S. 6,734,171. Applicant submits the present double patenting rejection is improper and respectfully requests withdrawal of the rejection and allowance of the claims.

CONCLUSION

Applicant respectfully submits that all pending claims of the present application satisfy the requirements for patentability and are in condition for allowance. Early indication of the same is therefore respectfully requested.

If a telephone call will help expedite any aspect of the prosecution of the instant application the Examiner is encouraged to contact the undersigned at 415-781-1989, or by facsimile at 415-398-3249.

Respectfully submitted,  
DORSEY & WHITNEY LLP

Dated: 5/8/06

BY:   
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Filed Under 37 C.F.R. § 1.34

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